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ABSTRACT

Public Law 94-142, the Education for All Handicapped Children Act, defines "handicapped children," specifies the criteria that must be met before children are eligible for special education, and identifies the "related services" that handicapped children may be eligible to receive. Section 504 of the Rehabilitation Act Amendments of 1973 also treats the provision of "related services" to handicapped children. Neither law, however, provides a conclusive definition of or precise regulations for delivering these related services. Considerable litigation has arisen as a result. This paper discusses cases, decisions, and memoranda pertaining to related services, noting where issues were resolved and where new issues were raised. Opinions handed down by the Bureau for Education of the Handicapped, decisions reached by state and federal courts, and analyses published in the Education of the Handicapped Law Review are cited. The document notes the importance of the U.S. Supreme Court's ruling in "Board of Education of Hendrick Hudson Central School District, Westchester County v. Rowley." (PGD)

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**LAW AND THE HANDICAPPED
WITH EMPHASIS ON
RELATED SERVICES**

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**PRESENTED AT
THE 36th ANNUAL MEETING OF N. C. P. E. A.
SAN MARCOS, TEXAS
17 AUGUST 1982**

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BACKGROUND

When President Ford signed P. L. 94-142, the Education for All Handicapped Children Act, on November 29, 1975, a number of questions were left unanswered--particularly in the areas which this paper addresses. Decisions handed down in litigation stemming from this legislation have tended to clarify some issues while raising additional questions in other areas.

Addressing the issue of full educational services to the handicapped in Section 601 (c), the Congress set the pattern for vast changes in public school programs in order to provide these services:

It is the purpose of this act to assure that all handicapped children have available to them within the time periods specified--, a free appropriate (emphasis supplied) public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.

Public Law 94-142 has several unique features which, in themselves, have led--and will continue to lead--to litigation. This law addresses actual instruction at the classroom level more explicitly than does any other federal statute. Further, the law mandates the development of an individualized educational program (IEP) for each handicapped child. This is the first federal law to require preservice education for both regular and special educators concerning handicapped children.

Section 121a.5 (a) defines "handicapped children" as those children who are mentally retarded, hard of hearing², deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, or have special learning disabilities. This definition involves children who, because of those impairments, need special education and related

services (emphasis supplied). Further, this definition sets two criteria for determining whether a pupil is eligible for special education. First, the pupil must have been evaluated and found to have one or more of the handicaps listed in the definition. Second, the pupil must need special education and related services because of the handicap. The reader should note that a child who does not require special education services is not considered handicapped for purposes of this law.

Section 121a.14 defines "special education" as specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

Coupled with that definition is the requirement that the education be provided for handicapped pupils to the maximum extent possible with their nonhandicapped peers. Only when it is impossible to work out a satisfactory placement in a regular class setting with supplementary aids and services shall pupils be placed in special or separate classes. It is incumbent upon state and local education agencies to provide a range of alternative placements to accommodate handicapped children in the least restrictive setting possible. This least restrictive environment provision is a hallmark of P.L. 94-142.

Section 121a.13 defines "related services" as meaning transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services

In schools, and parent counseling and training.

Thus, if a pupil is to receive related services they must be additional services necessary for the child to benefit from special education.

Thus far, the discussion has centered on P. L. 94-142. This must be read along with Section 504 of the Rehabilitation Act Amendments of 1973, P. L. 93-112. These two provisions (Section 504 and P. L. 94-142) provide the basic legislation for the handicapped. One should note that with the establishment of the Department of Education, all regulations adopted under Section 504 and P. L. 94-142 were recodified and redesignated as follows: Regulations under Section 504 were transferred from 45 CFR Part 84 to 34 CFR Part 104, effective 9 May 1980. P. L. 94-142 regulations were transferred from 45 CFR Part 121a to 34 CFR Part 300, effective 21 November 1980.

Section 504 states: No otherwise qualified handicapped individual in the United States. . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 504 defines a handicapped person as anyone who:

1. Has a physical or mental impairment that substantially limits one or more major life activities (such as manual skills, caring for self, walking, seeing, hearing, speaking, breathing, learning, and working); or
2. has a record of such an impairment (including persons who no longer have the handicapping condition, such as those with a past history of epilepsy, or who in fact never had the impairment but were classified erroneously as handicapped, such as individuals misclassified as mentally retarded); or
3. is regarded as having such an impairment (including a person without a substantially limiting physical or mental impairment who may be handicapped, such as a facially scarred yet otherwise nonhandicapped woman who is denied employment because an employer finds her appearance repulsive).

A handicapped pupil is protected from discrimination in public preschool, elementary, secondary, and adult education programs if the individual

1. is of an age during with nonhandicapped students are provided such services, or
2. is of an age during which state law mandates delivery of such services to handicapped students (originally ages 5 to 21 but 3 to 21 effective September 1, 1980), or
3. is one to whom a state must provide a free appropriate public education under P. L. 94-142 (ages 3 to 21 effective September 1, 1980).

Both P.L. 94-142 and P.L. 93-112, Section 504 are compliance laws. Thus, they describe provisions and then prescribe ways in which the states and local educational agencies will be monitored for compliance. The laws provide penalties for noncompliance (in these cases, possible loss of all federal funds) and methods whereby compliance may be forced.

Many school authorities, legal advisors, and courts recognize the controversial aspects of defining and delivering related services under the provisions of P.L. 94-142. Whether the Congress intentionally omitted this definition and decided to leave it to the individual states to decide or whether the omission was inadvertent, the result is a very perplexing void which has given rise to considerable litigation. There is a very real question of how far a school district should be expected to go in meeting the daily life needs of a pupil. In general, where the life need has a direct bearing on the ability of the pupil to profit from the educational experience and achieve the special education goals and objectives which have been established, one might, logically, expect that this is a related service and that it should be provided. This is to insure the child's access to a free appropriate public education.

It will be some time--perhaps, never--before a determination can be made as to whether the growing list of services being demanded can, in fact, be considered to be "related services". Each

of these categories will be considered.

TRANSPORTATION

The Bureau for Education of the Handicapped (BEH) has received a number of inquiries on the issue of transportation as a related service. The Office of Special Education (OSE) (formerly BEH) has indicated that under P.L. 94-142 and Section 504 there are basically two situations where school districts are responsible for providing transportation to handicapped children. First, if the school district provides transportation to the non-handicapped pupils to and from school, then it is responsible for providing transportation for handicapped children to any special education program in which it has placed the child. Second, if the school district does not provide transportation to the general school population, then the issue of transportation for handicapped children must be on a case-by-case basis. Here, the test is whether the handicapped child needs transportation to benefit from special education. If so, then it must be provided as a related service.

The following cases and directives illustrate some of the considerations in determining transportation awards:

In Pinkerton v. Moye, 509 F. Supp. 107 (W.D.Va. 1981), the district court ordered the school board to pay for the transportation of a child in order to fulfill the requirements in her IEP. The child was enrolled in a resource program at a school in her district which was nineteen miles from her home. Testimony indicated that she really needed a self-contained program which was available in another school district approximately twenty-five miles from her home. Her mother demanded that the board create a self-contained learning disabilities program at the closer school. The board argued that limited funds and en-

rolment precluded the establishment of this program. The court concluded that the board of education had reached a reasonable accommodation by providing a self-contained program at the school which was not closer to the child's home.

The Office of Civil Rights holds positions which are much the same as those held by BEH. In an interesting response to an inquiry from the Van Buren Public Schools (OCR 4/29/81), 2 EHLR 257:269, OCR determined that under Section 504 Regulations, special or adaptive transportation for a handicapped child should only be provided after a placement team has determined that it is necessary to provide a handicapped student with aids, benefits, and services as effective as those provided to the non-handicapped. It was deemed to be a violation of Section 504 to provide special or adaptive transportation where participants in placement meetings had consistently failed to document that (1) special transportation was being provided as a related service; (2) special transportation was necessary or, in the alternative, whether regular transportation could be implemented with related aids and services; and (3) special transportation could meet the individual needs of the student as adequately as the needs of the non-handicapped were met.

For additional transportation-related decisions, see:

Van Osdol (BEH 10/12/78), 2 EHLR 211:72 (Rate of reimbursement to parents for transportation provided as a related service.)

Storner (BEH 4/2/79), 2 EHLR 211:108 (Payment of incidental fees.)

Page's (BEH 2/5/80), 2 EHLR 211:170 (Provision of transportation as a related service to children who reside within the district but attend parochial schools outside the district.)

Fresno Unified School District (OCR 6/11/80), 2 EHLR 257:249
Transportation to and from a hospital day school for a
seriously emotionally disturbed student.)

Mannon (OSE 8/15/80), 2 EHLR 211:218 (Reimbursement of reason-
able transportation expenses of the parent when the par-
ent transports a handicapped child to a non-public school.)

Dubois (OSE 4/30/81), 2 EHLR 211:267 (Transportation arrange-
ments agreed upon for the child should be part of the
child's IEP.)

Lisa T., 3 EHLR 502:230 (Conn. 1980) (Board of Education should
provide cerebral palsied student with door-to-door trans-
portation as opposed to curb-to-curb transportation. A
transportation aide shall be provided to assist the
student.)

In Re Los Angeles Unified School District, 3 EHLR 502:323
(Calif. 1981) (School district was responsible for the
related service of transportation to out-patient therapy
required by a pupil in order for him to benefit from
special education.)

Dorman (BEH 10/4/78), 2 EHLR 211:70 (Transportation is a
mandatory service if it is included in the IEP as nec-
essary to provide part of an appropriate program or if
it is necessary for a child to receive other related
services, to get to and from a residential or special
school, or to participate in extracurricular activities.)

McGarvie (OCR 5/11/78), 2 EHLR 254:02 (Transportation for
summer school need not be provided if it is not provided to
nonhandicapped children and if the summer school is not
a mandated extended program pursuant to an IEP.

SPEECH PATHOLOGY AND AUDIOLOGY

Speech pathology, as a related service, is defined in 45 C.F.R.
section 121 a.13 (b)(12) as including the following:

- (i) Identification of children with speech and
language disorders;
- (ii) Diagnosis and appraisal of specific speech or
language disorders;
- (iii) Referral for medical or other professional at-
tention necessary for the habilitation of speech
or language disorders;
- (iv) Provisions of speech and language services for
the habilitation or prevention of communicative
disorders; and
- (v) Counseling and guidance of parents, children,
and teachers regarding speech and language dis-
orders.

In response to Bliton (BEH 4/17/79), 2 EHLR 211:97, BEH indicated that the state and local agency where the child resides have the ultimate responsibility for providing speech therapy as a related service. However, if a child happens to have been placed in a private school in another state, the respective agencies in that state are obligated to design their programs so that the handicapped children in those schools within their jurisdictions can participate in special education and related services if the parents so desire. It is important to note that BEH has indicated that speech pathology services can be considered to be both special education and a related service, depending on the child's primary handicap.

Under 45 C.F.R., section 121a.14(a)(2), a State may classify speech pathology as a special education service where the child's primary handicapping condition is a speech disorder; however, speech pathology may also be a related service which still must be provided where the speech disorder is not the child's primary handicapping condition.

For additional speech pathology decisions, please see also:

Andrews (BEH 1/4/80), 2 EHLR 211:141. (This indicates the classifications of speech pathology which are permitted.)

Case No. 107, 3 EHLR 502:101 (Calif. 1980). (This decision addressed the issue of whether myofunctional therapy may be included as an educational and related service in a speech-impaired child's IEP or whether it is a medical service.)

Audiology, as a related service, is defined in 45 C.F.R., Section 121a.13(b)(1) as including the following:

- (1) Identification of children with hearing loss;
- (11) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

- (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip reading), hearing evaluation, and speech conservation;
- (iv) Creation and administration of programs for prevention of hearing loss;
- (v) Counseling and guidance of pupils, parents, and teachers regarding hearing loss; and
- (vi) Determination of the child's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

BEH has issued a policy letter on this matter. In it, BEH holds that individually prescribed devices such as eyeglasses and hearing aids are generally considered to be personal items which are not required to be provided to a child at no cost to the parents. In addition to the policy letter, BEH has indicated that its position on this matter was consistent with OCR's interpretation of Section 504 of the Rehabilitation Act of 1973.

For a reference, see Minsky (BEH 4/7/78), 2 EHLR 211:19.

PSYCHOLOGICAL SERVICES

One of the real issues concerning related services deals with psychotherapy. If this is termed either a "counseling service" or a "psychological service", then it can be provided as a service at no cost to the handicapped child; on the other hand, however, if it is termed a "medical service" whenever it is provided by or under the supervision of a psychiatrist, then, unless it is provided for diagnostic or evaluative purposes, it falls outside the range of related services and the cost must be charged to the parents.

To clarify this, 45 C.F.R., Section 121a.13(b)(4) defines "Medical services" as those "services provided by a licensed physician to determine a child's medically related handicapping condition which results in the child's need for special education and re-

lated services." 45 C.F.R., Section 121a.13(b)(2) defines "counseling services" to mean "services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel." In 45 C.F.R., Section 121a.13(b)(8), "psychological services" are defined to include:

- (i) administering psychological and educational tests, and other assessment procedures;
- (ii) interpreting assessment results;
- (iii) Obtaining, integrating and interpreting information about child behavior and conditions relating to learning;
- (iv) consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations; and
- (v) planning and managing a program of psychological services, including psychological counseling for children and parents.

Returning to the question of considering psychotherapy as a related service, BEH has held the position that this will depend upon who provides the service. For example, if the State interprets psychotherapy to be a "counseling service", this service would have to be provided at no cost to the parents if it (the service) is listed in the child's IEP. See Minsky, supra. See, also Accord, Janda (BEH 1/25/79), 2 EHLR 211:205.

BEH tended to modify its position with regard to psychotherapy in its response to Millman (BEH 6/5/79), 2 EHLR 211:104. In its letter, BEH noted that psychotherapy is not specifically listed as a related service under the Act or its regulations but did note, also, that the list was not exhaustive. It recognized that there was a semantic problem because in some states psychotherapy is provided by persons other than a psychiatrist, i.e. a social worker. The determination of psychotherapy as a related service would hinge upon its being a service needed to assist a handicapped child to benefit from special¹² education. See BECK

(BEH 11/6/79), 2 EHLR 211:145. BEH has indicated that the matter of considering psychotherapy as a related service needs further study.

OCR takes a firm position that Section 504 and the regulations promulgated thereunder require the provision of medical and psychiatric service when they are shown to be necessary to enable a qualified handicapped child to benefit from special education. As noted in Connecticut Department of Education (OCR 10/17/79), 2 EHLR 257:57, OCR held that a Connecticut statute which specifically excluded medical, psychiatric or institutional care or services from the definition of educational services was inconsistent with both Section 504 and P.L. 94-142. OCR's statement was a conclusion that:

medical, emotional and psychiatric services are within the meaning of related aids and services of Section 84.33(b) when it is shown they are necessary to enable a qualified handicapped person to obtain the same result, to gain the same benefit or to reach the same level of achievement to the maximum extent possible.

See, also: Fresno Unified School District (OCR 6/11/80), 2 EHLR 257:248; and Simsbury Public Schools (OCR 6/16/80), 2 EHLR 257:176.

For additional decisions and policies related to "psychological services", the reader is referred to:

John T. v. Norristown Area School District, 3 EHLR 501:229 (Pa. 1979). (Pennsylvania ruled explicitly that psychotherapy is not a school related service but rather is a medical service which is the responsibility of the Department of Public Welfare.)

In the Matter of Application of the Board of Education of the City School District of the City of New York, 3 EHLR 502:122 (N.Y. 1980). (New York has followed the position of BEH, viz: that psychotherapy is a medical service, the cost of which is not required to be borne by the educational system, when the treatment consists mainly of intensive psychiatric services provided either directly by physicians or by other professionals acting under the direction of a physician.)

Robin G. v. Acushnet Public Schools, 3 EHLR, 502:188 (Mass. 1980); Lorrie v. Natick Public Schools, 3 EHLR 501:366 (Mass. -undated); In Re Claudia K., 3 EHLR 552:501 (Ill. 1981). (In Massachusetts and Illinois the terms "psychological services" and "psychotherapy" appear to have been used interchangeably and the question of the costs therefor being borne by the educational system answered since such services are required to be provided pursuant to state law.)

North v. District of Columbia Board of Education, 471 F. Supp. 136 (D.D.C. 1979). (When the issue has been litigated, the courts, generally, have included psychotherapy as one of the related services to be provided by a school district to a handicapped child even though their decisions sometimes have been made indirectly rather than directly.

Armstrong v. Kline, 476 F. Supp. 583 (E.D. Pa. 1979) aff'd sub nom. Battle v. Commonwealth of Pennsylvania, 629 F. 2d 269 (3d Cir. 1980); and P-I v. Shedd, 3 EHLR 551:164 (D. Conn. 1979). (In both these decisions the school systems were held responsible for services which included psychotherapy.)

In the Matter of the "A" Family, 602 P. 2d 157 (Mont. 1979); and Charlie Papacoda v. State, 3 EHLR, 552:495 (D. Conn. 1981). (In these two cases, the court held that the State was required to provide psychotherapy.)

The interpretations and decisions which have been rendered thusfar support the provision of psychotherapy as a psychological service under the definition of related services which are to be provided to handicapped children under the appropriate circumstances.

PHYSICAL AND OCCUPATIONAL THERAPY

Physical therapy is defined, in 45 C.F.R., Section 121a.13(b) (7), to mean "services provided by a qualified physical therapist."

Again, we come to semantics and the manner in which physical therapy is defined. In its response to Micklem (BEH 1/2/79), 2 EHLR 211:86, BEH indicates that physical therapy could be provided as a related service to a preschool-aged child identified as not requiring special education by bootstrapping it onto a program of adaptive physical education which, then, is considered to be special education under the law and regulations. We go back to what

has been enunciated previously; namely, that one of two conditions must be met--either the child must be enrolled in a special education program or the related service which is to be provided is necessary for the child to participate in and benefit from the specially designed instruction. BEH has addressed this issue on several occasions.

In Bilton, supra, BEH indicated that the child's home state--Michigan--was responsible for providing a free appropriate public education even though the parents had placed their physically handicapped child in a private day school in Indiana. BEH also indicated that the Indiana local agency was responsible for designing its programs appropriately, so that the child could participate in special education and related services if the parents so desire.

Responding to Long (BEH 6/8/79), 2 EHLR 211:167, BEH held that, under the Regulations, if a handicapped child does not need special education, there can be no related services. But if a state defines physical therapy as special education, then under 45 C.F.R., Section 121a.14(a)(2) such therapy may be provided to a child who receives no other special education. If, on the other hand, the state defines physical therapy as a related service, then it may not be provided to a child who receives no special education. Conversely, the therapy must be provided as a related service if the handicapped child needs it in order to benefit from his special education program.

We come now to the question of who shall provide the service. If a handicapped child needs physical therapy, per se, then under 45 C.F.R., Section 121a.13(b)(7) those services would have to be provided by a "qualified" physical therapist. Under Section 121a.12, this means "a person [who] has met state educational agency approved or recognized certification, licensing, registration, or

other comparable requirements which apply to the area in which he or she is providing special educational related services."

The next issue which BEH addressed was the scope of physical therapy services. In responding to an inquiry from LAW (OSE 7/29/80), 2 EHLR 211:219, BEH (now OSE) held that a school district cannot limit its responsibility for the provision of physical therapy to consultation and evaluation. Direct or actual "treatment" must be provided when necessary to meet the child's educational needs. See, also, Duck (BEH 11/9/79), 2 EHLR 211:148; Sheehan (BEH 5/21/79), 2 EHLR 211:102; In the Matter of the Application of the Board of Education of the Three Villages Central School District, 3 EHLR 501:320 (N.Y. 1979); and In The Matter of the Application of a Handicapped Child, 3 EHLR 502:121 (N.Y. 1980).

The possession of a physical impairment does not automatically entitle a child to special education which will allow him to receive the related service of physical therapy. This was the decision of the Pennsylvania Secretary of Education in Thomas B. v. Radnor Township School District, 3 EHLR 502:176 (Pa. 1980). This case involved a high functioning child who was physically impaired by cerebral palsy. The child had been successfully mainstreamed into the regular kindergarten instructional program. Evidence that he was functioning within the normal limits for children his age was presented. As a result, he did not fall under the state definition of "exceptional" nor under the federal definition of "handicapped". The Secretary found that the public schools had no legal duty to maximize the physical potential of the physically impaired child.

We come now to recourse for parents who disagree with school district findings with respect to special services. In re: Santa Barbara County School District, California SEA Decision No.

SH-159, 3 EHLR 502:128 (7/25/80) is a case in which parents sought evaluation of their handicapped child to determine the need for sensory integration therapy as a related service. The state agency denied the request, asserting that the student was learning-disabled and the requested evaluation was only appropriate for physically handicapped students. The hearing officer disagreed, and the evaluation was ordered.

Another case which illustrates costs which can be assessed against school districts when parents are successful in the outcome of a hearing is Julie C. v. Marshfield Public Schools, 3 EHLR 502:170 (Mass. 1980). Physical therapy had been omitted from the IEP for a multi-handicapped student. The parents rejected the IEP, arranged privately for the therapy and requested a hearing. The hearing officer found that the physical therapy was a necessary component of the student's IEP and ruled that it must be provided by the school district. Physical therapy had been recommended originally by an independent evaluator to prevent progression of the child's scoliosis but this did not indicate a lack of a direct relationship between the therapy and the student's educational needs. The hearing officer ruled that it was appropriate for the parents to obtain private therapy after they had received the results of the independent evaluation and, since the school district had provided the student with therapy in the past, the parents could look to the school district for reimbursement of the costs of the private therapist. Further, it was held that the parents would be reimbursed for the costs of the private physical therapy from the date which they had rejected the IEP and requested a hearing. The system was directed to continue the therapy and to pay the costs for a full evaluation of the child including, but not limited to, medical, physical and occu-

pational therapy components.

The real question about physical therapy is whether it is considered special education or whether it is a related service available only to a child who is receiving special education. Applicable state law and regulations really determine the end result.

Occupational therapy is a related service, defined in 45 C.F.R. Section 121a.13(b)(5) to include:

- (i) Improving, developing or restoring functions impaired or lost through illness, injury or deprivation;
- (ii) Improving ability to perform tasks for independent functioning when functions are impaired or lost; and
- (iii) preventing, through early intervention, initial or further impairment of loss or function.

Relying upon the Act in which Congress specifically separated occupational therapy services from medical services, BEH has been consistent in holding to its view that occupational therapy is a related service. Accordingly, BEH held, in its response to Duck (BEH 11/9/79), 2 EHLR 211:148 that occupational therapy must be provided as a related service necessary to assist a handicapped child to benefit from special education.

A question which surfaces quite frequently pertains to the use of insurance payments to pay for occupational therapy. In its response to Sheehan (BEH 5/21/79), 2 EHLR 211:102, BEH cited 45 C.F.R., Section 121a.301(b) which provides that insurers are not relieved by the Regulations from otherwise valid obligations to pay for services to handicapped children. Holding that since insurance coverage is voluntary on the part of the parents, BEH saw no conflict between the regulations and P.L. 94-142. There is no requirement in the regulations that parents of handicapped children must use their insurance benefits for related services such as

occupational therapy. The regulation permits states to make use of all available resources to provide a free appropriate public education for all handicapped children. This, then, would include available insurance proceeds. See, also, In the Matter of Application of the Board of Education of the Three Village Central School District, 3 EHLR 501:320 (N.Y. 1979).

An issue to which OSE responded was one of standard of need. The standard is that a related service must be provided when necessary in order to provide an appropriate education to meet the special educational needs of the child as determined by the child's current evaluation. Thus, OSE responded to an inquiry by Jacobs (OSE 2/18/81), 2 EHLR 211:262 and stated that this standard of need is applicable to all related services. Further, a higher standard of need may not be established for one related service as compared to another if the effect of the higher standard would result in conflict with the overall standard for the provision of related services in general. In determining what services are necessary for a child, the individual needs of the child must be determined on a case-by-case basis.

Other decisions on occupational therapy which might be reviewed by the reader are:

Case No. 10164, 3 EHLR 501:353 (N.Y. 1980) (The school district has an obligation to provide an occupational therapist for a visually impaired child only if it is required in order for the child to benefit from special education, not simply to provide it if it assisted the child in benefiting from special education.)

Case No. 10245, 3 EHLR 502:121 (N.Y. 1980) (The New York Commissioner of Education has determined, based on federal and state regulations, that related services such as occupational therapy can and must be provided to handicapped children residing in the jurisdiction of the school district but who attend non-public schools.)

In Re Christine F., 3 EHLR 502:304 (Mass. 1981) (Occupational therapy rendered by three different providers in a program, for a multi-handicapped child, established by a

local school district was judged to be adequate and appropriate by a hearing officer.)

It appears to be quite clear that occupational therapy is a related service which can be provided to a child in need of it in order to benefit from his program of special education.

RECREATION

Recreation is a category of related service which is defined in 45 C.F.R.; Section 121a.13(b)(9) to include:

- (i) assessment of leisure function;
- (ii) therapeutic recreation services;
- (iii) recreation programs in schools and community agencies; and
- (iv) leisure education.

For a handicapped student whose problems included withdrawal, loneliness and avoidance of physical activity, a hearing officer in Sandra T. v. Old Rochester Regional School District, 5 EHLR 502:181 (Mass. 1980) ruled that a district must provide both a therapeutic specialist (to consult with teachers and to work with the student) and six hours per week of after-school activities.

In the Massachusetts decision of In Re Christine F., supra, the hearing officer determined that because the school district provided rather extensive extra-curricular activities for non-handicapped children it must develop new programs or modify existing ones in order to give handicapped students the opportunity to participate in an after-school program. Further, the hearing officer deemed the school district's adaptive physical education program, in conjunction with the after-school program, to be adequate and appropriate to meet the handicapped student's special education needs. Thus, the parents' demand for a therapeutic recreational program was denied.

COUNSELING SERVICE

Counseling services, as defined in 45 C.F.R., Section 121a.13 (b)(2) are: "services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel."

Two cases dealing with counseling services are worthy of note. They are:

School Committee, Town of Truro v. Commonwealth of Massachusetts, Massachusetts Superior Court No. 39756, 3 EHLR 552:186 (6/27/80). In this action a local school district unsuccessfully tried to overturn a state agency decision that had granted a parent's request for counseling by a particular psychologist. The Court said that the Bureau of Special Education Appeals had the authority to recommend the engagement of a particular psychologist "where the special needs of the child require that recommendation for an adequate and appropriate program."

In Gary B. v. Cronin, 3 EHLR 551:633 (N.D. Ill. 1980), the district court, in a class action suit, held that handicapped children who alleged that they attended private schools because the Illinois public schools did not have special education facilities for them since Illinois state regulations of the Purchased Care Review Board excluded counseling and therapeutic services from consideration as special education or related services did have standing to challenge that regulation as a violation of P.L. 94-142 and Section 504 of the Rehabilitation Act of 1973.

Counseling has been established as a related service and, as such, comes under the list of services which local school districts will be responsible for providing.

MEDICAL SERVICES

P.L. 94-142 limits its definition of medical services as related services to those which can be provided as diagnostic and

evaluative, only. See, 20 U.S.C., Section 1401(17). In 45 C.F.R. Section 121a, 13(b)(4), medical services are further defined to mean "services provided by a licensed physician to determine a child's medically related handicapping condition which results in a child's need for special education and related services."

The real issues here are (1) if the service is to be diagnostic and evaluative, (2) if treatment is required, (3) if the service is deemed to be medical service under state law and (4) if the service is required "to meet individual educational needs of handicapped persons as adequately as non-handicapped persons are met. . ."

With respect to questions (1) and (4), BEH, OCR, and the courts have required the local educational systems to pay the costs or, in the event that the parent has already paid the costs, to reimburse the parent. With respect to the other categories, the local school system has not been required to pay the costs.

Decisions on medical services which may be of interest to the reader are:

Triplett (BEH 10/27/77), 2 EHLR 211:08 (BEH stipulated its position on the definition of "medical service" and under what conditions the school system would be required to pay the costs.)

Halton (BEH 3/31/78), 2 EHLR 211:18 (BEH stated its position on whether the services of a chiropractor could be considered related services.)

Clerk (BEH 3/24/78), 2 EHLR 211:43 and Jacobs (BEH 8/14/78) 2 EHLR 211:54 (BEH defined the services of an optometrist which might be considered related services, i.e. (1) if they are required to assist a handicapped child to benefit from special education, or (2) if they are diagnostic services. However, optometrists cannot provide medical diagnostic services since such services do not meet the definition of "medical services" because they are not provided by a licensed physician.)

San Francisco Unified School District (OCR 4/10/81), 2 EHLR 257:239 (OCR ruled in favor of the parent in accepting the claim that the student's private vision therapy done through a private ophthalmologist was a related service necessary to meet the student's needs.)

In Re Robin S., 3 EHLR 502:232 (Ga. 1/13/80) (The Georgia State Board of Education ruled that the local school district was not required to pay for the visual diagnosis nor for visual therapy provided by an optometrist. The Board ruled that the evaluation must be performed by a licensed physician and, under Georgia law, an optometrist is not a licensed physician.)

Woods v. Pittman, 3 EHLR 552:442 (N.D. Miss. 1981) (The Court held that under the provisions of 45 C.F.R., Section 121a.13, the services performed by staff physicians were "diagnostic, prescriptive, and evaluative" and were, therefore, reimbursible. This was in response to a school district's refusal to pay a portion of an out-of-state private facility's bill which was for "medical services".)

There seems to be a clear line of demarcation in determining if medical services are to be considered related services and, therefore, reimbursible or payable on the part of the school district.

CATHETERIZATION

There has been a continuing debate over whether catheterization is a medical service or a related service. In this instance, the claim is that catheterization is a "school health service". "School health services" are defined at 45 C.F.R., Section 121a.13(b)(10) as "services provided by a qualified school nurse or other qualified person."

In a letter of finding Cronin (OCR 2/27/80), 2 EHLR 257:93, OCR stated:

The key concept is that the education must be designed to meet the educational needs of handicapped students as adequately as the needs of the nonhandicapped students are met. Neither Section 504 nor [the Act] precludes an "on-going medical" service from constituting a related service. In fact, it is the position of OCR that even a medical service, such as catheterization, may be a related service.

Previously, OCR had stated that same position in a letter ruling to the North Kansas City (Missouri) School District (OCR 11/29/78, 2 EHLR 257:04. OCR concluded that catheterization could be provided by a nurse, nurse's aide, any trained responsible adult, or even by the person requiring catheterization.

To the contrary of the OCR ruling, the Texas Board of Education ruled in Amber T. v. Irving Independent School District, 3 EHLR 501:306 (Tex. 1979) that catheterization is a medical service and, therefore, not required to be provided free of cost to a child. The State Board concluded that the child was orthopedically handicapped on the basis of her spina bifida and neurogenic bladder condition and thereby entitled to special education, but that clean intermittent catheterization (CIC) was medical treatment for a condition resulting from the neurological disorder and not connected with or related to her handicapping condition.

The courts have, on other occasions, required that school systems provide catheterization if necessary for a student to benefit from special education. The court held, in Hairston v. Drosik, 423 F. Supp. 180 (S.D.W. Va. 1976), that exclusion from attendance at public school of a child with spina bifida who required catheterization was precluded by Section 504. Another case, Sherer v. Waier, 457 F. Supp. 1039 (W.D. Mo. 1977), was dismissed for failure to exhaust administrative remedies. Upon re-submission, the matter was subsequently withdrawn when the system agreed to provide that service.

In Tatro v. State, 481 F. Supp. 1224 (N.D. Tex. 1979), vacated 625 F. 2d 557 (5th Cir. 1980), 3 EHLR 552:226, the district court determined that the school system was not required to provide clean intermittent catheterization (CIC) to a child with a neurogenic bladder condition under either P.L. 94-142 or Section 504 because catheterization was not a related service. On review, however, the Fifth Circuit said, "Not so!" and vacated and remanded the case. The Fifth Circuit found that catheterization necessary for the child to be present in the classroom at all was a "supportive service" required to assist the handicapped child to benefit from special education and thus was a "related service".

In discussing the matter of the "support service", the Fifth Circuit said that a life support service would not be a related service if it did not have to be provided during school hours, but instead could be performed at some other time. Further, the Court held that in order to be a related service, the life support service must be one which a nurse or other qualified person could perform.

A similar situation was present and the findings were the same in Amber Tokarcik v. Forest Hills School District, 3 EHRLR 552:427 (W. D. Pa. 1980), aff'd Nos. 80-2844/2845 (3d Cir. 9/8/81).

There now seems to be fairly common agreement that catheterization is a related service which must be provided to a school child by a school system if it will enable the child to benefit from special education. It seems highly unlikely that Congress did not intend for a child who is perfectly able to benefit from attendance in the classroom to be excluded from that classroom because of a problem which can be solved in this manner.

SOCIAL WORK SERVICES IN SCHOOLS

Such services are defined in 45 C.F.R., Section 121a.13(b)(11) as follows:

- (i) preparing a social or developmental history on a handicapped child;
- (ii) group and individual counseling with the child and family;
- (iii) working with those problems in a child's living situation (home, school and community) that affect the child's adjustment in school; and
- (iv) mobilizing school and community resources to enable the child to receive maximum benefit from his or her educational program.

BEH, in responding to an inquiry into who other than social workers should be allowed to perform the tasks defined in this section, in Levine (BEH 8/3/78), 2 EHLR 211:44, commented in a manner similar to the Comment which followed the section. The Comment provides that certain services may be provided by persons of various professional backgrounds and titles, depending upon individual state requirements. It provides, further, that counseling services might be provided by social workers, psychologists, or guidance counselors and that psychological testing might be done by qualified psychological examiners, psychometrists, or psychologists, depending, again, on individual state standards.

PARENT COUNSELING AND TRAINING

The definition of this related service in 45 C.F.R., Section 121a.13(b)(6) states that these services shall be taken to mean "assisting parents in understanding the special needs of their child and providing parents with information about child development."

There are several decisions which might help the reader to better understand the scope of this related service.

In School Committee, Town of Truro v. Commonwealth of Massachusetts, Department of Education, Division of Special Education, Bureau of Special Education Appeals, 3 EHLR 552:186 (Mass. Superior Court, 1980), the court affirmed the Bureau of Special Education Appeals' determination that continued counseling by the same psychologist was necessary to make the child's program adequate and appropriate. The court found, further, that an adequate program required continuation of the same psychologist due to the special relationship which the parent and child had built up with her.

In In Re Los Angeles Unified School District, 3 EHLR 502:266 (Calif. 1981) a hearing officer ordered that the school district must provide counseling to parents as a related service and that the counseling must be separate from that provided to the student, so as not to reduce the counseling time for the student.

In yet another matter, In Re San Mateo County Superintendent of Schools, California SEA Decision No. SH-221, 3 EHLR 502:199 (11/10/80), the California State Superintendent of Instruction held that sign language must be provided to the guardian of a sight and hearing impaired three-year-old.

MISCELLANEOUS RELATED SERVICES

Even though ten categories have been listed, there are many other possible "related services" which may be required to assist a handicapped child to benefit from special education. One such is the service of an interpreter or a sign language aide.

One of the most significant decisions with reference to "related services" was reached on June 28th of this year when the United States Supreme Court in Board of Educ. of Hendrick Hudson Central School Dist., Westchester County v. Rowley (S. Ct.), No. 80-1002 ruled that the Education for All Handicapped Children Act did not require the States to maximize the potential of each handicapped child commensurate with the opportunity provided nonhandicapped children. Therefore the court ruled that a deaf grade school student was not entitled to a sign-language interpreter in light of the fact that she performed better than the average child in her class and was advancing from grade to grade. The Court stated that the Act's requirement of a "free appropriate public education" is satisfied when a State provides personalized instruction with sufficient support services to permit the handicapped child to benefit educationally from the instruction.

Justice Rehnquist wrote the majority opinion; Justice White, who was joined by Justices William Brennan and Thurgood Marshall, wrote the dissenting opinion.

Because of the impact of this decision on the matter of related services and an appropriate educational program, we shall provide more background than we have in other cases in this paper.

In Rowley v. Board of Education of the Hendrick Hudson Central School District, 483 F. Supp. 528 (S.D.N.Y. 1980), aff'd, 632 F.2d 945 (2d Cir. 1980), the district court held, and the Second Circuit affirmed, that an eight-year old deaf child was entitled to have a sign language interpreter during any school period when academic subjects were taught. The lower court decision is remarkable in that it contained an extended definition of an "appropriate" education. The Court indicated that an appropriate education "would require that each handicapped child be given an opportunity to achieve his full potential [emphasis supplied] commensurate with the opportunity provided to other children." 483 F. Supp. at 534. The Court added that application of this standard "requires that the potential of a handicapped child be measured and compared to his or her performance, and that the resulting differential or 'shortfall' be compared to the shortfall experienced by non-handicapped children." Id. The Second Circuit, indicating that its decision should have no precedential value, affirmed the lower court. In doing so, the Court indicated that the unique facts of Amy Rowley's case undergirded that particular decision. The decision was not intended to be authority beyond that point.

It should be noted that, on appeal to the United States Supreme Court, this became the High Court's first decision on P.L. 94-142. In writing the majority opinion, Justice William Rehnquist said that Congress intended for the 1975 law "more to open the door of

public education to handicapped children than to guarantee any particular level of education once inside." The majority opinion went further to indicate that states getting federal funds to provide handicapped schooling only have to comply with the procedures of P.L. 94-142 and show that an individualized education program (IEP) developed under those procedures is "reasonably calculated to enable the child to receive educational benefits."

Justice Harry Blackmun, in a concurring opinion, indicated that the question in the Rowley case was whether Amy's IEP, "viewed as a whole, offered her an opportunity to understand and participate in the classroom that was substantially equal to that given her nonhandicapped classmates." In his opinion, the "total package" of services given Amy met that test. The school system set up a teletype to communicate with Amy's parents, who are also deaf, trained school staff in sign language and provided the girl with a hearing aid, a tutor for the deaf for an hour a day and a speech therapist for three hours a week.

This decision came at the end of a three-year legal battle which has divided the educational community. Assuredly, this is not the end of the matter. Advocates of equal educational opportunity are being urged to go back to Congress when things look favorable and seek changes in the handicapped law to provide stronger language for such opportunities; persons who favor the High Court decision will be just as adamant in insisting that federal judges make legal rulings and not educational decisions.

Other decisions which the reader may wish to review are:

Jeanine G., 3 EHLR 502:148 (Conn.1980) and In Re West Covina Unified School District, 3 EHLR 502:209 (Calif. 1980).
(Provision of interpreters or sign language aides.)

In The Matter of the Application of the Board of Education of The Kenmore Union Free School District, 3 EHLR 502:264 (N.Y. 1981) (Provision of sign language training to parents)

of a handicapped child as a related service.)

In Re Los Angeles Unified School District, 3 EHLR 502:321 (Calif. 1981) and In Re Santa Barbara County School District, 3 EHLR 502:128 (Calif. 1980) (Sensory integration therapy as a related service).

Simsbury Public Schools (OCR 6/16/80), 2 EHLR 257:176 and Kruelle v. New Castle County School District, 642 F. 2d 687 (3d Cir. 1981) (The total costs of a residential placement for a handicapped child, including room and board, have been judged to be a related service.)

Chico Unified School District, 3 EHLR 502:172 (Calif. 1980) (The law only requires that the district provide an appropriate program. A visual computer was not required as an instructional math aid for a cerebral palsied student.)

Garn (OSE 5/19/81), 2 EHLR 211:211. (Corrective therapy is a related service as long as it is identified and included in the child's IEP.)

Christopher H. v. Boston Public Schools, 3 EHLR 502:255 (Mass. 1981) (The local educational agency is not financially responsible for the costs of day care services incurred by a handicapped child's family during the period he was out of school and being served by a home tutor provided by the LEA.)

In Re Capistrano Unified School District, 3 EHLR 502:129 (Calif. 1980) (The hearing officer directed that a student be provided with a drug/alcohol detoxification program as a related service, stating that regardless of the source, the student's problems were interfering with whatever ability he might have to benefit from an educational program.)

In The Matter of the Application of the Board of Education of the School District of the City of New York, 3 EHLR 502:315 (N.Y. 1981) (The New York Commissioner held that a school district must first be allowed to determine whether a multi-handicapped student can benefit from special education before it can be held responsible for providing her with a related service, i.e. feeding therapy.)

Joseph L. V. Boston Public Schools, 3 EHLR 501:133 (Mass. 1979) (A hearing officer found that the local educational agency was obligated to fund a music therapy program administered outside the school because the program was essential for the child's progress.)

In The Matter of the Application of a Handicapped Child, 3 EHLR 502:121 (N.Y. 1980) (The New York Commissioner of Education ruled that state law requires school districts to furnish related services to students attending private and parochial schools. In this instance--physical and occupational therapy and remedial reading instruction.)

Grkman v. Scanlon, 528 F. Supp. 1032 (D.C. Pa.), (Student's continuance in private school which specialized in training the deaf was appropriate educational placement.)

Buchholtz v. Iowa Dept. of Public Instruction, 315 N.W. 2d 789 (Iowa)(School district was not required to provide best program available for handicapped student, but only "appropriate" program.)

Davis v. District of Columbia Bd. of Ed., 530 F. Supp. 1209 (D.C. D.C.)(Financial responsibility is not an issue in a due process hearing to determine whether the public school education offered a handicapped child is appropriate.)

Collin K. v. Schmidt, 536 F. Supp. 1375 (D.C. R.I.)(Proposal for placement of two learning disabled children within public classrooms and providing for some mainstreaming violated children's right to a free appropriate education.)

CONCLUSION

The issues surrounding "related services" are manifold; they continue to multiply and increase in complexity. The future is clear only in one respect--that there will be increased litigation in this area.

The paramount issue to be considered when the question of related services is raised is whether the service is required to assist the handicapped child to benefit from special educational programs. Given an affirmative answer, a whole host of questions then emerges. Included in this host, but not considered to be all-inclusive, we might expect the following:

What shall be the nature, extent, and frequency of the related services?

What agency shall be responsible for providing the services?

Where and under what conditions shall the services be provided?

What professional(s) will provide the services?

Do state laws or regulations place any limitations or restrictions on the services?

The United States Supreme Court has spoken on the issue of maximizing the potential of each handicapped child. That does not

. . . relieve local school districts of their responsibilities to insure each handicapped child's access to a free appropriate public education. P.L. 94-142 and Section 504 are the law of the land. If any one factor stands out in this discussion of related services, it is the fact that such services are to be determined on a case-by-case basis. If it is thus determined that an individual handicapped child needs a particular related service in order to benefit from special education programs, it would be appropriate for that service to be provided.

LIST OF CASES AND DECISIONS

1. Accord, Janda (BEH 1/25/79), 2 EHLR 211:205
2. Amber Tokarcik v. Forest Hills School District, 3 EHLR 552:427 (W.D.Pa. 1980), aff'd Nos. 80-2844/2845 (3d Cir. 9/8/81)
3. Amber T. v. Irving Independent School District, 3 EHLR 501:306 (Tex. 1979)
4. Andrews (BEH 1/4/80), 2 EHLR 211:141
5. Armstrong v. Kline, 476 F. Supp. 583 (E.D.Pa. 1979), aff'd sub nom. Battle v. Commonwealth of Pennsylvania, 629 F. 2d 269 (2d Cir. 1980)
6. Beck (BEH 11/6/79), 2 EHLR 211:145
7. Blifton (BEH 4/17/79), 2 EHLR 211:97
8. Board of Educ. of Hendrick Hudson Central School Dist., Westchester County v. Rowley (S. Ct.) No. 80-1002
9. Buckholtz v. Iowa Dept. of Public Instruction, 315 N.W. 2d 789 (Iowa)
10. Case No. 107, 3 EHLR 502:101 (Calif. 1980)
11. Case No. 10164, 3 EHLR 501:353 (N.Y. 1980)
12. Case No. 10245, 3 EHLR 502:121 (N.Y. 1980)
13. Chico Unified School District, 3 EHLR 502:172 (Calif. 1980)
14. Christopher H. v. Boston Public Schools, 3 EHLR 502:255 (Mass. 1981)
15. Clark, (BEH 3/24/78), 2 EHLR 211:43
16. Colin K. v. Schmidt, 536 F. Supp. 1375 (D.C.R.I.)
17. Cronin (OCR 2/27/80), 2 EHLR 257:93
18. Davis v. District of Columbia Bd. of Ed., 530 F. Supp. 1209 (D.C.D.C.)
19. Dorman (BEH 10/4/78), 2 EHLR 211:70
20. Dubois (OSE 4/30/81), 2 EHLR 211:267
21. Duck (BEH 11/9/79, 2 EHLR 211:148
22. Fresno Unified School District (OCR 6/11/80), 2 EHLR 257:248
23. Garn (OSE 5/19/81), 2 EHLR 211:211
24. Gary B. v. Cronin, 3 EHLR 551:633 (N.D.Ill. 1980)

25. Grkman v. Scanlon, 528 F. Supp. 1032 (D.C.Pa.)
26. Halrston v. Drosik, 423 F. Supp. 180 (S.D.W.Va. 1976)
27. Halton (BEH 3/31/78)
28. In Re Capistrano Unified School District, 3 EHLR 502:129 (Calif. 1980)
29. In Re Christing F., 3 EHLR 502:304 (Mass. 1981)
30. In Re Los Angeles Unified School District, 3 EHLR 502:266 (Calif. 1981)
31. In Re Los Angeles Unified School District, 3 EHLR 502:321 (Calif. 1981)
32. In Re Los Angeles Unified School District, 3 EHLR 502:323 (Calif. 1981)
33. In Re Robin S., 3 EHLR 502:232 (Ga. 1/13/80)
34. In Re San Mateo County Superintendent of Schools California SEA Decision No. SH-221, 3 EHLR 502:199 (11/10/80)
35. In Re Santa Barbara County School District, California SEA Decision No. SH-159, 3 EHLR 502:128 (7/25/80)
36. In Re West Covina Unified School District, 3 EHLR 502:209 (Calif. 1980)
37. In The Matter of the Application of a Handicapped Child, 3 EHLR 502:121 (N.Y. 1980)
38. In The Matter of the Application of the Board of Education of the City School District of the City of New York, 3 EHLR 502:122.
39. In The Matter of the Application of the Board of Education of the City School District of the City of New York, 3 EHLR 502:315 (N.Y. 1981)
40. In The Matter of the Application of the Board of Education of the Kenmore Union Free School District, 3 EHLR 502:264 (N.Y. 1981)
41. In The Matter of the Application of the Board of Education of the Three Village Central School District, 3 EHLR 501:320 (N.Y. 1979)
42. Jacobs (BEH 8/14/78), 2 EHLR 211:54
43. Jacobs (OSE 2/18/81) 2 EHLR 211:262
44. Jeanine G., 3 EHLR 502:148 (Conn. 1980)
45. John T. v. Norristown Area School District, 3 EHLR 501:229
46. Joseph L. v. Boston Public Schools, 3 EHLR 501:133 (Mass. 1979)

47. Julie E. v. Marshfield Public Schools, 3 EHLR 502:170 (Mass. 1980)
48. Kruehl v. New Castle County School District, 542 F. 2d 687 (3d Cir. 1981)
49. Law (OSE 7/29/80), 2 EHLR 211:219
50. Levine (BEH 8/3/78), 2 EHLR 211:44
51. Lisa T., 3 EHLR 502:230 (Conn. 1980)
52. Long (BEH 6/8/79), 2 EHLR 211:167
53. Mannon (OSE 8/15/80), 2 EHLR 211:216
54. McGarvie (OCR 5/11/78), 2 EHLR 254:02
55. Micklem (BEH 1/2/79), 2 EHLR 211:86
56. Millman (BEH 6/5/79), 2 EHLR 211:104
57. Hlosky (BEH 4/7/78), 2 EHLR 211:19
58. North v. District of Columbia Board of Education, 471 F. Supp. 136 (D.D.C. 1979).
59. North Kansas City (Missouri) School District (OCR 11/29/78), 2 EHLR 257:04
60. P-1 v. Shedd, 3 EHLR 551:164 (D. Conn. 1979)
61. Pagels (BEH 2/5/80), 2 EHLR 211:170
62. Pinkerton v. Moye, 509 F. Supp. 107 (W.D.Va. 1981)
63. Robin G. c. Acushnet Public Schools, 3 EHLR 502:188
64. Rowley v. Board of Education of the Hendrick Hudson Central School District, 483 F. Supp. 528 (S.D.N.Y. 1980), aff'd 632 F. 2d 945 (2d Cir. 1980)
65. Sandra T. v. Old Rochester Regional School District, 3 EHLR 502:181 (Mass. 1980)
66. San Francisco Unified School District (OCR 4/10/81) 2 EHLR 257:239
67. School Committee, Town of Truro v. Commonwealth of Massachusetts, Massachusetts Superior Court No. 39756, 3 EHLR 552:186 (6/27/80)
68. Sheehan (BEH 5/21/78), 2 EHLR 211:102
69. Sherer v. Waler, 451 F. Supp. 1039 (W.D.Mo. 1977)
70. Simsbury Public Schools (OCR 6/16/80), 2 EHLR 257:176

71. Stormer (BEH 4/2/79), 2 EHLR 211:108
72. Tatro v. State, 481 F. Supp. 1224 (N.D.Tex. 1979), vacated
625 F. 2d 557 (5th Cir. 1980), 3 EHLR 552:226
73. Thomas B. v. Radnor Township School District, 3 EHLR 502:176
(Pa. 1980)
74. Triplett (BEH 10/27/77), 2 EHLR 211:08
75. Van Buren Public Schools (OCR 4/29/81), 2 EHLR 257:269
76. Van Osdol (BEH 10/12/78); 2 EHLR 211:72
77. Woods v. Pittman, 3 EHLR 552:442 (N.D.Miss. 1981)